

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of PATRICK N. WRIGHT,
BRENDAN A. WRIGHT, and HAILEY IRENE
EVITTS, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

MELISSA EVITTS,

Respondent-Appellant,

and

BRIAN BULLOCK and BROCK EVITTS,

Respondents.

Before: Murray, P.J., and Neff and Donofrio, JJ.

MEMORANDUM.

Respondent-appellant appeals as of right from the trial court order terminating her parental rights to the minor children under MCL 712A.19b(3)(c)(i) (conditions leading to adjudication not rectified), (g) (failure to provide proper care or custody), and (j) (reasonable likelihood that child will be harmed if returned home). Brock Evitts, father of Brendan and Hailey, also had his parental rights to the children terminated in the October 8, 2003, order pursuant to §§ 19b(3)(c)(i), (g), and (h). He is not a party to this appeal. Brian Bullock, father of Patrick Wright, voluntarily relinquished his parental rights to his child and therefore is not a party in the instant proceedings. Because the evidence shows that the trial court did not clearly err in finding that termination of respondent's parental rights under §§ 19b(3)(c)(i), (g) and (j) was established by clear and convincing evidence; because the evidence did not show that termination of these rights was clearly not in the children's best interests, we affirm.

Respondent argues that her counseling, which was among the requirements of her treatment plan, was inadequate and termination was, therefore, premature. The record does not support this argument. Two counselors terminated respondent-appellant's sessions for lack of

attendance. Further, contrary to respondent-appellant's argument on appeal, there were attempts by the FIA and the trial court to ensure that respondent's counseling address the issues raised in her psychological evaluation.

We must conclude that the trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(G)(3); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Respondent's children were initially brought into the court's custody based on allegations that she could not protect them because she continued to reside in the home that she shared with her husband, Brock Evitts, who was twice convicted of criminal sexual conduct with a child under the age of thirteen. In fact, until May 2003, she expressed a desire to reunite with Brock Evitts, and as of the October 1, 2003, trial date was unable to produce evidence that she was in the process of divorcing him. To learn to protect her children, respondent was required to participate in counseling and to keep her oldest child, Patrick, away from a neighbor child with whom he had engaged in inappropriate sexual touching. She failed in both respects and also failed to consistently take Patrick to his counseling sessions while he was in her care. Respondent also did not comply with other aspects of her treatment program, such as obtaining and maintaining appropriate housing and employment. She did not consistently visit the children. The trial court did not clearly err in finding that the evidence was sufficient to establish the cited statutory grounds for termination.

Furthermore, the evidence did not show that termination of respondent-appellant's parental rights was clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Thus, the trial court did not err in terminating respondent-appellant's parental rights to the children.

Affirmed.

/s/ Christopher M. Murray

/s/ Janet T. Neff

/s/ Pat M. Donofrio